

BELIZE

DESIGNATED PROCESSING AREAS ACT

CHAPTER 280
REVISED EDITION 2020

SHOWING THE SUBSTANTIVE LAWS AS AT
31ST DECEMBER, 2020

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2020.



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CHAPTER 280

DESIGNATED PROCESSING AREAS ACT

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CHAPTER 280

DESIGNATED PROCESSING AREAS ACT

27 of 2018.

21st December, 2018.

PART I

Preliminary

Short title.

1. This Act may be cited as the Designated Processing Areas Act.

Interpretation.

2. In this Act unless the context otherwise requires–

"Appeal Board" means the Appeal Board established under section 24.

"approved activity" means economic activity within a national priority sector declared under section (8), and carried on in a DPA;

"approved company" means an entity that is issued, a DPA status under section 9 and a Certificate of Compliance under section 15;

"benefits" mean reliefs and incentives provided under Part V, that are granted to an approved company;

"Company" means an entity that is formed and registered in Belize under the Companies Act, the Business Names Act or a CARICOM Member State and includes an International Business Company

Cap. 250.
Cap. 247.

"DPAC" means the Designated Processing Areas Committee established under section 3;

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"Designated Processing Area" or "DPA" means a geographic area within Belize, that receives benefits, for economic activity in a national priority sector;

"Designated Processing Area Business" or "DPA Business" means a company that is issued, a DPA status as a DPA Business and a Certificate of Compliance, to operate within a DPA that is established and administered by a DPA Developer;

"Designated Processing Area Developer" or "DPA Developer" means a company that is issued, a DPA status as a DPA Developer, a Certificate of Designation and a Certificate of Compliance, to establish and administer a DPA and accommodate DPA Businesses;

"fit and proper" means, at a minimum, a person who is of good character and reputation, not a bankrupt, not convicted of an offence involving fraud or dishonesty and includes any other matter as the DPAC deems appropriate.

"infrastructure" means a physical structure fixed to any land, part of any land, any building or part of any building, and includes roads, bridges or storm sewers;

"Minister" means the Minister of Government with responsibility for Designated Processing Areas and "Ministry" shall be construed accordingly;

"senior management staff" includes a person who, is a member of the board of directors of a corporation, a partner in a partnership, an owner of a sole proprietorship, or manages at least 25 percent of the personnel of a company;

"Special Designated Processing Area" or "Special DPA" means a company that is issued, a DPA status as a Special DPA, a Certificate of Designation and a Certificate of Compliance, to operate one company, excluding its subsidiaries, at an approved location or locations; and

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"technical staff" means a position in a company held by a professional, scientist or engineer.

PART II

Designated Processing Areas Committee

Establishment and composition of DPAC.

3.-(1) There is established a body to be known as the Designated Processing Areas Committee.

(2) The DPAC shall comprise of no more than ten persons who shall be appointed by the Minister as representatives of the following–

(a) the Ministry with responsibility for Designated Processing Areas;

(b) the Ministry with responsibility for Labour;

(c) the Ministry with responsibility for Economic Development;

(d) the Ministry of Finance;

(e) the Ministry with responsibility for Agriculture;

(f) one representative from the Belize Chamber of Commerce and Industry;

(g) two representatives from the DPA Developers, DPA Businesses or Special DPAs;

(h) one representative from the industrial sector with at least three years' experience; and

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(i) one representative from the services sector with at least three years' experience.

(3) The representatives referred to in sub-section (2) shall be appointed to serve for a period of two years and be eligible for reappointment of not more than three consecutive appointments.

(4) At any meeting of the DPAC, for the purpose of voting, six members shall constitute a quorum.

(5) Decisions of the DPAC shall be by majority vote, and in any case in which the number of members sitting to vote is even, the Chair shall have a casting vote.

(6) The Minister shall appoint from among the members, one member to be the Chair, to preside over meetings.

(7) The Committee shall, at its first meeting, select from among its members a Deputy Chair.

(8) The Deputy Chair shall, in the absence or unavailability of the Chair, perform all functions and duties of the Chair.

(9) A member of the DPAC may at any time resign from the DPAC, in writing, addressed to the Chair, who shall forthwith cause the resignation to be forwarded to the Minister, and the Chair may resign from the DPAC, in writing, addressed to the Minister.

(10) The DPAC may, after consultation with the Minister, make rules to regulate its procedures for the conduct of its business.

(11) The Minister may terminate the appointment of a member of the DPAC where that member–

(a) is of unsound mind or is incapable of carrying out their duties;

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(b) becomes bankrupt or compounds with their creditors;

(c) is convicted of any offence which brings the member's office into disrepute;

(d) is convicted of misconduct in relation to the member's duties;

(e) is absent, except with leave granted by the DPAC, for three consecutive duly constituted meetings of the DPAC; or

(f) fails to carry out any of the duties or functions conferred on or assigned to the member under this Act.

Objectives of the DPAC.

4. The principal objectives of the DPAC shall be the facilitation of trade and the stimulation of sustainable economic development, productivity, investment, employment, and production according to national standards.

Powers, duties and functions of DPAC.

5.-(1) The main function of the DPAC shall be to regulate the DPAs.

(2) For the purpose of carrying out the objectives specified in section 4, the DPAC may have and exercise the powers, duties and functions as conferred on it by this Act and in particular, to–

(a) advise and make recommendations to the Minister on all aspects of development of the DPAs;

(b) develop and propose policies and legislation to the Minister for the development of the DPAs;

(c) examine and determine applications by a company for a DPA status and issue relevant approvals;

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(d) issue, vary, suspend or revoke a DPA status or a benefit granted by the DPAC, in accordance with the requirements of this Act;

(e) ensure the recovery of any costs to implement and administer DPAs;

(f) set standards and procedures for the development, efficient management and maintenance of DPAs; Powers, duties and functions of DPAC;

(g) implement administrative procedures for the management of all goods and merchandise imported into or exported from DPAs;

(h) set administrative fees or fines for the violation of any of the provisions of this Act, after consultation with the DPA Developers, DPA Businesses and Special DPAs; and

(i) do all other acts as may be incidental or conducive to the attainment of the objectives of the DPAC or the exercise of the proper performance of its powers duties and functions under this Act.

(3) The DPAC may grant to a company that is not an approved company, permission to operate within a DPA, if the good, product or service provided by the company is deemed by the DPAC to be complementary to or enhance the DPAs.

(4) A company that is granted permission under subsection (3), shall not be eligible for DPA benefits.

(5) The DPAC may enter into an agreement with the Comptroller of Customs to facilitate the efficient operation of a DPA, including–

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(a) the availability of Customs services in a DPA on a continuous basis;

(b) to carry out any Customs procedures and systems, to enable the pre-arrival clearance of goods destined for the DPAs; and

(c) the efficient transportation of goods and equipment destined for a DPA from a port subject to compliance with any security and bonding arrangement as determined by the Comptroller.

(6) The DPAC may establish subcommittees to advise on issues to assist the DPAC in the performance of its duties and functions and the exercise of its powers under this Act.

(7) A Member of any subcommittee established under sub-section (6) may be a member of the DPAC or a person with technical expertise in any area of the specific issue that is being advised on.

Personal liability of members.

6. No personal liability shall attach to any member of the DPAC for–

(a) any act or omission of the DPAC; or

(b) anything done or permitted in good faith in the course of the operations of the DPAC, under this Act.

DPAC Secretariat.

7.-(1) The DPAC shall be managed by a Secretariat which shall serve as the technical arm of the DPAC.

(2) The members of the Secretariat shall be selected by the Minister from among the employees of the Ministry with responsibility for investment.

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(3) A member of the Secretariat shall be selected by the Minister to be the Coordinator of the Secretariat.

PART III

Application Procedure for DPA Status

Approved activities.

8. The Minister may by Order, declare a sector to be a national priority sector, in accordance with the National Plan or any other plan or policy of the Government.

Application for DPA status.

9.-(1) A company may apply to the DPAC, for a DPA status, to renew or vary a DPA status, as any of the following, in the approved Form–

(a) a DPA Developer;

(b) a DPA Business; or

(c) a Special DPA.

(2) A company may apply to the DPAC to administer a DPA that was previously administered by an approved company, if the DPA status of the approved company is revoked by the DPAC.

(3) A company that forms an intention to change ownership, in whole or in part, shall inform the DPAC of that intention.

(4) In its consideration of an application under sub-section (1), the Secretariat shall consult with the following–

(a) the Ministry responsible for finance;

(b) the Ministry responsible for economic development;

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(c) the Ministry responsible for natural resources;

(d) the Labour Department;

(e) the Bureau of Standards; and

(f) the Department of the Environment.

(5) In consideration of an application under sub-section (1), the Secretariat may consult with the following–

(a) Ministry responsible for agriculture;

(b) Directorate General of Foreign Trade;

(c) the Central Building Authority; or

(d) any other relevant Ministry or Authority as the Secretariat deems necessary.

(6) The DPAC may refuse an application–

(a) if it determines that the activity of the company will distort competition in the market or be inconsistent with fair trade practices; or

(b) for any reason as determined by the DPAC.

Eligibility for DPA status.

10.-(1) A company shall be eligible for DPA status if–

(a) the activity of the company is an activity listed under the national priority sectors as determined under section 8;

(b) the principals of the company are fit and proper persons;

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(c) the company commits in its application that the proposed business of the company will generate a minimum capital investment as prescribed under this Act;

(d) the activities of the company do not violate any environmental laws of Belize;

(e) the application for a DPA status is accompanied by a business plan which includes all relevant approvals;

(f) the company provides proof of financing in accordance with the requirements of the DPAC;

(g) the company includes in its application, a list of the non-controlled items required for the proposed activity of the company; and

(h) the company submits proof that the proposed DPA is located in an area that is suitable for the proposed activity, in accordance with any established developmental or environmental plans for the area.

(2) A company shall not be eligible for a DPA status as a DPA Developer or a Special DPA unless the company submits proof that it is the title owner of or has a notarised or registered lease for the property the company proposes to use as the DPA.

(3) A company shall not be eligible for a DPA status as a DPA Business or a Special DPA unless the company demonstrates that it has–

(a) the capacity to meet any prescribed standards applicable to the market the company proposes to supply;

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(b) the capacity to meet any conformity regime that applies to the proposed activity;

(c) a detailed plan for the training and transfer of knowledge to the employees of the company; and

(d) where applicable, a plan for research and development.

(4) A company shall not be eligible for a DPA status as a DPA Business unless the company has an agreement with a DPA Developer to operate a business within the DPA that is administered by the DPA Developer.

PART IV

Administration of DPA

11. The obligations of an approved company shall include, to–

(a) bear all costs associated with the administration of the DPA;

(b) ensure compliance with all sanitary and phytosanitary requirements under the Belize Agricultural Health Authority Act, where applicable;

CAP. 211.

(c) keep and maintain a physical and electronic record of inventory, production or sale of goods and services for inspection by the DPAC and the Customs and Exercise Department;

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(d) ensure that 85 percent of the persons employed in a DPA are nationals of Belize or another CARICOM Member State;

(e) ensure that persons employed in a DPA who are not nationals of Belize or another CARICOM Member State, are employed as senior management or technical staff;

(f) facilitate the inspection by the Customs and Excise Department, of any container of imported goods, that was granted pre-arrival clearance;

(g) inform the DPAC, in writing, of any intention to change the ownership of the approved company; and

(h) keep and maintain financial and other written records and report to the DPAC on DPA activities, performance, and developments, as specified by the DPAC.

12. The obligations of a DPA Developer shall include–

(a) liability for any injury or damage caused to any person or property in a DPA, where the injury or damage is caused by the negligence of the DPA Developer;

(b) to ensure that every company operating within the DPA is, an approved company or a permitted company under section 5(3);

(c) leasing property within a DPA to an approved company on the terms and conditions as agreed between the parties;

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(d) to make improvements to the DPA and provide all relevant infrastructure, facilities, utilities and services necessary to support the approved activities of the businesses within the DPA;

(e) to provide security to safeguard the movement of persons and goods in and out of the DPA, including surveillance and fencing, where applicable;

(f) to charge fees for any services or facilities provided by the DPA Developer within the DPA;

(g) to adopt rules and regulations for the DPA, with the prior approval of the DPAC, to promote the safe and efficient operation of the DPA;

(h) to promote and advertise the DPA locally and internationally; and

(j) to provide an administration office for the DPA and an office to accommodate a customs officer when carrying out duties at the DPA.

Obligations of Special DPA.

13. The obligations of a Special DPA shall include, to–

(a) make improvements to the DPA and provide all relevant infrastructure, facilities, utilities and services necessary to support the approved activities of the DPA;

(b) provide security to safeguard the movement of persons and goods in and out of the DPA, including surveillance and fencing, where applicable;

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(c) conduct only those activities that are approved by the DPAC;

(d) bear all costs associated with the regulatory services provided to the approved company; and

(e) ensure compliance with any domestic standards or other relevant requirements, in accordance with the business plan submitted by the company.

Obligations of DPA Business

14. The obligations of a DPA Business shall include, to–

(a) bear all costs associated with the regulatory services provided to the company;

(b) conduct only those activities that are approved by the DPAC; and

(c) ensure compliance with any domestic standards or other relevant requirements, in accordance with the business plan for the approved company.

Certificate of Compliance

15.-(1) An approved company shall be issued a Certificate of Compliance including–

(a) the registration number of the Certificate of Compliance;

(b) the registration number of the Certificate of Designation issued to the company, if any;

(c) the date of issue and expiration of the Certificate of Compliance;

(d) the name of the company;

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(e) the DPA status granted to the company;

(f) the approved activity;

(g) the benefits granted to the company; and

(h) the location and description of the DPA.

(2) The Certificate of Compliance that is issued to a DPA Business shall include the registration number of the Certificate of Designation that was issued to the DPA Developer who administers the DPA within which the DPA Business will operate.

(3) The Secretariat shall by notice in the *Gazette*, publish the list of approved companies.

(4) An approved company may apply to the DPAC to vary, the information contained in the Certificate of Compliance including–

(a) the name of the company;

(b) the names of the shareholders of the company;

(c) the approved activity; and

(d) the description of the property that comprises the DPA.

Certificate of Designation.

16.-(1) An approved company that is issued a DPA status as a DPA Developer or Special DPA, shall be issued a Certificate of Designation.

(2) The Certificate of Designation issued under sub-section (1) shall include–

(a) the registration number of the Certificate of Compliance;

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(b) the registration number of the Certificate of Designation;

(c) the date of issue and expiration of the Certificate of Designation; and

(d) the description of the property that comprises the DPA.

Operations Contract.

17. An approved company shall be a party to an Operations Contract between the company and the Chief Executive Officer of the Ministry outlining, among other things, the rights and obligations of the DPA status.

PART V

Benefits Attached to DPA Status

Duration of benefits.

18.-(1) An approved company shall be issued a DPA status for a period of not more than ten years.

(2) A company that applies to the DPAC for a DPA status on the first occasion, shall be eligible for all benefits listed under subsection (3), for a period of up ten years.

(3) The benefits granted by the DPAC include exemption from–

(a) customs and excise duties and taxes;

(b) tariffs;

(c) consumption tax on imports;

(d) trade turnover tax; or

(e) property and land tax.

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(4) A company that applies to the DPAC to renew a DPA status may not be eligible for–

(a) all benefits granted by the DPAC; or

(b) benefits for a period of up to ten years.

(5) Notwithstanding subsection (2), the DPAC may refuse to grant or suspend a benefit, where the DPAC determines that the company–

(a) is not eligible for the grant of the benefit; or

(b) has contravened a provision of this Act for which suspension is the prescribed penalty.

(6) Where the DPAC suspends a benefit under subsection (5), the DPAC shall give reasons, in writing to the company, for its decision.

(7) A company shall be eligible for benefits on an annual quota for fuel if the fuel is utilised in relation to an approved activity and used for–

(a) the generation of steam or electricity; or

(b) the operation of a water pump.

(8) An approved company shall not be eligible for benefits for controlled items.

(9) For the purposes of this section–

(a) "controlled item" means–

(i) firearms and ammunition;

(ii) military equipment and materials; or

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(iii) drugs.

(b) "non-controlled item" means any good that is intimately related to the approved activity of the company.

(10) An company that receives a benefit for a non-controlled item shall not sell, hire, lend, give away or dispose of the non-controlled item within Belize, except after payment of import duty, stamp duty, excise and revenue replacement duty on the value of the non-controlled item at the date of the transaction as assessed by the Comptroller.

(11) An approved company that supplies transit goods to another approved company shall not be liable to the payment of any taxes.

(12) For the purposes of this section "transit goods" mean the customs procedure under which imported goods are transferred under customs control from the port of entry to another port for exportation.

(13) An approved company that incurs a total net loss over the period as specified in the Certificate of Compliance may carry the loss forward and deduct it against profits in the years following the expiration of the DPA status.

(14) A company that contravenes or fails to comply with the requirements of sub-section (10), commits an offence and is liable on summary conviction to a fine equal to three times the value of the non-controlled item, as assessed by the Comptroller of Customs or to a fine of twenty thousand dollars, whichever is the greater, and in every case the item shall be forfeited.

Acts not applicable.

19.-(1) The following Acts shall not apply to a DPA–

(a) the Trade Licensing Act; CAP. 66.

(b) the Rent Restriction Act; and, CAP. 195.

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(c) the Land Tax Act,

CAP. 58.

CAP. 293.

(2) The Supplies Control Act shall not apply to a DPA in relation to the importation of raw materials for the production of goods and services that are not for sale in Belize.

(3) An approved company shall be eligible to maintain a foreign currency account in a domestic or international bank that is located in Belize.

CAP. 52.

(4) An approved company that is eligible under subsection (3) shall be subject to the Exchange Control Regulation Act,

(5) An approved company shall submit a monthly report to the Central Bank of Belize of all–

(a) transactions in the foreign currency accounts held by the company; and

(b) sales and purchases of the company.

PART VI

Administrative Penalties

Administrative penalty.

20. A company that contravenes or fails to comply with the provisions of this Act shall be liable to pay the prescribed fine.

PART VII

Revocation of a DPA Status

Revocation of DPA status.

21. The grounds for revocation of a DPA status shall be where–

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(a) an approved company, through its own fault, fails to initiate operations within two years from the date of issue of a DPA status to the company;

(b) the DPA ceases to operate for two consecutive years

(c) the DPAC revokes a DPA status of an approved company, based on a request by the company to revoke its DPA status;

(d) an approved company repeatedly violates to the provisions of this Act;

(e) the benefits of an approved company are suspended for more than twelve months; or

(f) the principal of an approved company is convicted of an offence involving–

(i) fraud or dishonesty; or

(ii) firearms or illegal drugs.

PART VIII

Fees

Social Fee.

22.-(1) Notwithstanding any other provision of this Act or any other law to the contrary, there shall be levied and charged a social fee on the value of all goods imported into a DPA at the rate the Minister of Finance may from time to time, after consultation with the DPAC, prescribe by Order published in the *Gazette*.

(2) An Order made by the Minister under sub-section (1) shall be subject to negative resolution.

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(3) The Comptroller of Customs shall be responsible for the collection of the social fee.

(4) For the purpose of collecting and enforcing the payment of social fee, the Customs Regulation Act shall apply in the same manner as if the social fee were a Customs duty, CAP. 49.

(5) The social fee shall become due and payable at the time when the goods are entered and shall be paid by the importer.

23. All fees and fines payable under this Act shall be paid into the Consolidated Revenue Fund or a separate fund approved by the Ministry of Finance.

PART IX

Miscellaneous

Establishment of Appeal Board

24.-(1) There is established an Appeal Board which shall be appointed by the Minister by Order and comprise of the following—

(a) two representatives from the Attorney General's Ministry;

(b) the President of the Belize Chamber of Commerce and Industry; and

(c) a representative from the private sector.

(2) The Minister shall appoint a member of the Appeal Board to be the Chair, who shall serve for a period of one year and be eligible for reappointment.

(3) A member of the Board may at any time, by notice to the Minister in writing, resign from the Board.

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(4) The Minister may terminate the appointment of a member of the Board for inability or misbehaviour, or on the ground of any employment or interest which appears to the Minister to be incompatible with the functions of a member of the Board.

(5) No defect in the qualification or appointment of any member of the Board shall vitiate any proceedings of the Board.

Appeals.

25. (1) A company that is aggrieved by a decision of the DPAC may lodge an appeal with the Appeal Board.

(2) An application for an appeal shall–

(a) be in writing;

(b) include and application fee of two thousand dollars;

(c) give the particulars of the decision to which the aggrieved company is requesting the appeal;

(d) include any documentation the aggrieved company wants to be taken into account in the appeal;

(e) give the address to which notices can be sent; and

(f) be delivered to the address of the Appeal Board within twenty one working days of the date of notice of the rejection of the review.

(3) The Appeal Board may accept or reject an application under subsection (1) and submit a notice of its decision to the aggrieved company within sixty working days of the date of receipt of the application.

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(4) Where the Appeal Board determines that it is equitable to do so, it may accept an application that is made after the time period stated under subsection (2)*(f)*.

Review of DPAC decision.

26.-(1) Notwithstanding section 25, before any appeal is instituted, a company that intends to appeal a decision of the DPAC shall, apply to the DPAC for review of a decision.

(2) An application for a review shall–

(a) be in writing;

(b) include an application fee of two thousand dollars;

(c) set out or otherwise sufficiently identify the decision to be reviewed;

(d) set out the grounds for the review and state briefly the facts on which the applicant relies;

(e) give the address to which notices can be sent; and

(f) be delivered to the address of the Secretariat within fourteen working days of the date of notice of the decision.

(3) The DPAC shall acknowledge receipt of an application under sub-section (1), within ten working days of receipt of the application.

(4) The DPAC may confirm or reverse a decision under sub-section (1), and submit a notice of its reviewed decision, within sixty working days of the date of receipt of the application.

(5) A decision that is confirmed under sub-section (4) may be appealed.

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27. The DPAC shall not be liable for any injury or damages to any person in a DPA that is caused by the negligence of the person.

Liability of DPAC.

28. The DPAC shall provide a quarterly report on the development of DPAs to the Ministry, within one month after the expiration of every quarter.

Quarterly report to the Ministry.

29. The Export Processing Zone Act is repealed.

Repeal. CAP. 280

30.-(1) In this section "former Act" means Export Processing Zone Act repealed by this Act.

Transitional. Cap. 280

(2) Every Export Processing Zone (EPZ) Developer, EPZ Business or Special EPZ that was immediately before the commencement of this Act, administering or operating in, an Export Processing Zone, shall upon the coming into force of this Act, be deemed to be a DPA Developer, a DPA Business or a Special DPA, for a period of two years.

(3) A company under sub-section (2) shall be eligible to apply to the DPAC under section 9 for the renewal of the DPA status.

(4) An application made within twelve months of the issue of a DPA status under sub-section (3), shall be exempt from the payment of the application fee.

(5) Every EPZ Developer, EPZ Business or Special EPZ that was immediately before the commencement of this Act, operating a casino, hotel, International Business Company or Bank within an Export Processing Zone under the former Act, may continue to operate that casino, hotel, International Business Company or Bank until June 30, 2021.

31. The DPAC may, with the approval of the Minister, make regulations for the better carrying out of the provisions of this Act, including for the following–

Regulations.

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(a) prescribing the criteria for obtaining a DPA status; or

(b) prescribing application fees and administrative fees.

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